


**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

**HOPE CUELLER,**  
**Plaintiff,**

**V.**

**R&R CONSTRUCTION SERVICES,  
LLC, R&R CONSTRUCTION, INC.,  
AND RICHARD & RICHARD  
CONSTRUCTION CO., INC.,  
Defendants.**



**CIVIL ACTION NO.: 6:20-cv-01100**  
**(JURY TRIAL DEMANDED)**

## **NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to Title 28 U.S.C. §§1332, 1441(a) and (e), and 1446, Defendant, Richard & Richard Construction Co., Inc. (“Defendant”), files its Notice of Removal to the United States District Court for the Western District of Texas, Waco Division, based on diversity of citizenship. In support thereof, Defendant respectfully shows the following:

### A. FACTUAL BACKGROUND

1. On August 18, 2020, Plaintiff, Hope Cuellar, initiated a lawsuit against Defendants, R&R Construction Services, LLC and R&R Construction, Inc., in the 170<sup>th</sup> Judicial District Court of McLennan County, Texas. The cause number for the lawsuit is 2020-2548-4. The style of the lawsuit was *Hope Cueller vs. R&R Construction Services, LLC and R&R Construction, Inc.* See Exhibit D-1.

2. On October 8, 2020, Plaintiff filed her First Amended Petition and Request for Disclosure and added Richard & Richard Construction Co., Inc. as a defendant. *See* Exhibit D-6.

3. On November 2, 2020, Plaintiff served process to Defendant. *See* Exhibit D-5.

4. On November 23, 2020, Defendant filed its Original Answer, Request for Disclosure, and Jury Demand. *See* Exhibit D-7.

5. Defendant files this Notice of Removal within 30 days of receiving service of Plaintiff's pleadings. Accordingly, this Notice of Removal is timely. *See* 28 U.S.C. §1446(b).

6. By filing this Notice of Removal, defendant does not waive any defenses that may be available to Defendant.

7. Pursuant to 28 U.S.C. §1446(a), Defendant has attached the following documents to this Notice of Removal:

- Exhibit A: Civil Cover Sheet;
- Exhibit B: Supplemental Civil Cover Sheet;
- Exhibit C: Docket Sheet;
- Exhibit D: State Court Filings;
  - Exhibit D-1: Plaintiff's Original Petition and Request for Disclosure;
  - Exhibit D-2: Request for Issuance;
  - Exhibit D-3: Request for Issuance for Joe Russell;
  - Exhibit D-4: Citation and Return of Service for R&R Construction Services, LLC;
  - Exhibit D-5: Citation and Return of Service for R&R Construction, Inc.;
  - Exhibit D-6: Letter/Answer from Joe and Susan Russell -
  - Exhibit D-7: Citation and Return of Service for Richard & Richard Construction Co., Inc.;
  - Exhibit D-8: Plaintiff's First Amended Petition and Request for Disclosure; and

- Exhibit D-9: Defendant Richard & Richard Construction Co., Inc.'s Original Answer, Request for Disclosure; and Jury Demand;
- Exhibit E: List of Parties and Counsel; and
- Exhibit F: Defendant's Corporate Disclosure Statement.

## **B. BASIS FOR REMOVAL**

Removal is proper based upon diversity of citizenship under 28 U.S.C. §§1332(a)(1), 1441(a), and 1446.

### **1. Plaintiff and Defendant are diverse.**

At all relevant times, Plaintiff was a resident of McLennan County, Texas. *See* Exhibit D-6 at Page 1. Whereas, Defendant is a California corporation. Defendant's primary place of business is in California. Therefore, Defendant is a citizen of California. Defendant is not a citizen of Texas. Accordingly, complete diversity exists between Plaintiff and Defendant.

### **2. The amount in controversy exceeds the jurisdictional requirements for subject matter jurisdiction.**

The amount in controversy exceeds \$75,000. In Plaintiff's First Amended Petition and Request for Disclosure, Plaintiff affirmatively pled that she is seeking damages "over \$200,000 but not more than \$1,000,000." *See* Exhibit D-6 at Page 2.

Additionally, Plaintiff is seeking damages for past and future medical expenses, physical pain and suffering, mental anguish, loss of earning capacity, physical impairment, physical disfigurement, loss of enjoyment of life, and physical disability. At this time, Plaintiff's past economic damages exceed \$54,000. This amount does not include all the damages claimed by Plaintiff. The parties expect Plaintiff's economic damages to exceed \$75,000. Therefore, the amount in controversy exceeds the jurisdictional requirements for subject matter jurisdiction.

### **C. THE REMOVAL IS PROCEDURALLY CORRECT**

Defendant first received the notice of this lawsuit on November 2, 2020, when Defendant was served with Plaintiff's First Amended Petition and Request for Disclosure. *See Exhibit D-6*. Therefore, Defendant is filing this Notice of Removal within the 30-day period as required by 28 U.S.C. §1446(b).

Additionally, venue is proper in this District and Division under 28 U.S.C. §1446(a) because: (i) this District and Division include the county where the state action is pending; and (ii) a substantial part of the events giving rise to Plaintiff's claims allegedly occurred in this District and Division.

Furthermore, pursuant to 28 U.S.C. §1446(a), Defendant has attached all pleadings, process, orders, and all other filings made in the state court action to this Notice of Removal.

Lastly, pursuant to 28 U.S.C. §1446(d), promptly after filing this Notice of Removal, Defendant will give written notice of the filing to Plaintiff. And, pursuant to 28 U.S.C. §1446(d), Defendant will also file a true and correct copy of this Notice of Removal with the Clerk of McLennan County, Texas.

### **D. CONCLUSION**

Based on the foregoing, the exhibits submitted, and other documents filed contemporaneously with this Notice of Removal, Defendant hereby removes this case to this Court for trial and determination.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

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**ATTORNEYS FOR DEFENDANT, RICHARD &  
RICHARD CONSTRUCTION CO., INC.**

**CERTIFICATE OF SERVICE**

I certify that on December 2, 2020, a true and correct copy of the foregoing document was served on all known counsel of record pursuant to the Federal Rules of Civil Procedure.

/s/ Evan N. Kramer  
Evan N. Kramer